

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

NOTICE

On June 10, 2014, pursuant to 28 U.S.C. §2071(e), the judges of the United States District Court, determining that there is an immediate need, approved a Resolution amending Local Rule of Civil Procedure 41.1(b) to clarify that its time limit of ninety (90) days for a party to file an application to vacate, modify or strike from the record for cause shown, an Order dismissing an action with prejudice and without costs pursuant to the agreement of counsel, is consistent with Rule 60 (c) of the Federal Rules of Civil Procedure relating to motions for reopening a final judgment or order “within a reasonable time,” to read as follows:

Rule 41.1 Dismissal and Abandonment of Actions

(a) Whenever in any civil action the Clerk shall ascertain that no proceeding has been docketed therein for a period of more than one year immediately preceding such ascertainment, the Clerk shall send notice to counsel of record, or, if none, to the parties that the action shall be dismissed, unless the court upon written application filed within thirty (30) days from the date of such notice and upon good cause shown, shall otherwise order. In the absence of such application to or order by the court, the Clerk shall, without special order, enter upon the record “dismissed, with prejudice under Rule 41.1,” and shall, upon application by defendant, tax the costs against the plaintiffs.

(b) Whenever in any civil action counsel shall notify the Clerk or the judge to whom the action is assigned that the issues between the parties have been settled, the Clerk shall, upon order of the judge to whom the case is assigned, enter an order dismissing the action with prejudice without costs, pursuant to the agreement of counsel. Any such order of dismissal may be vacated, modified, or stricken from the record, for cause shown, upon the application of any party served within ninety (90) days of the entry of such order of dismissal, **provided the application of the ninety-day time limitation is consistent with Federal Rule of Civil Procedure 60(c).**

As the above change merely conforms our Local Rules with the Federal Rules of Civil Procedure, an Order of the Court was entered on June 11, 2014 making this amendment effective immediately with a period to follow of forty-five days afforded for purposes of Notice to the Bar and Public and Solicitation of Comment, pursuant to 28 U.S.C. §2071(e).

Those wishing to submit comments on these amendments may do so by submitting said comments to the attention of Michael E. Kunz, Clerk of Court, United States Courthouse, 601 Market St., Room 2609, Philadelphia, PA, 19106, or by fax at 215-597-6390 or 215-580-2167, before the close of business, Friday, August 8, 2014. Copies of the amended Local Rules may be obtained by submitting a request at the address listed above, or by obtaining them in person at the Clerk's Office, or at the court's Website, www.paed.uscourts.gov.

Petrese B. Tucker, Chief Judge

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IN RE: LOCAL RULE OF CIVIL PROCEDURE 41.1(b)

ORDER


AND NOW, this 10th day of June, 2014, it appearing that this Court is vested with authority, pursuant to 28 U.S.C. §§2071 (e), 2077 and Federal Rule of Civil Procedure 83, to promulgate Local Civil Rules not inconsistent with the Federal Rules of Civil Procedure and applicable statutes,

AND, in accordance with the unanimous resolution of the Judges of the Court on this date, this court has determined that there is a need to immediately amend Local Rules of Civil Procedure 41.1(b) to comport with Rule 60(b) of the Federal Rules of Civil Procedure, and that, in accordance with 28 U.S.C. §2071(e), there shall be a forty-five day period commencing on that date for purposes of Notice to the Bar and Public and Solicitation of Comment, it is hereby

ORDERED that the rules set forth below as amended and approved are adopted, effective June 10, 2014. It is

FURTHER ORDERED that the Clerk of Court transmit a copy of Local Rule of Civil Procedure 41.1(b), as amended, to the Director of the Administrative Office of the United States Courts and the Judicial Council of the Third Circuit Court of Appeals and make said Rule available to the bar and public.

FOR THE COURT:



PETRESE B. TUCKER,
Chief Judge